17 1654 Response

146.1286

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: : F. Moezie
T. SHIMURA et al :
Serial No. 09/068,253 : Group: 1654
Filed: May 13, 1998 :
For: CARTILAGE/BONE...REPARATION :

600 Third Avenue
New York N.Y. 10016
August 22, 2000

RESPONSE

Asst. Commissioner for Patents
Washington, D.C. 20231

Sir:

Responsive to the office action of August 15, 2000, Applicants request reconsideration of this application in view of the remarks presented herein.

It is noted that the finality of the rejection of April 13, 2000 has been withdrawn and the Examiner now, after three office actions, is requiring a sequence listing but Applicants do not understand the reason for requiring the sequence listing since the present invention is directed to a cartilage and bone morphogenetic repairing composition comprising a collagen free aqueous solution of a polyoxyethylene-polyoxypropylene glycol and a bone morphogenetic protein which is old and well known to those skilled in the art. The invention is on the basis that the aqueous solution of the two ingredients forms a solution of 1 to 30°C and when injected into the body, it gelatinizes at about 37°C due to the properties of the glycol. There is no need under these circumstances for a sequence listing and withdrawal of this

requirement is requested. A copy of the notice is being submitted herewith.

Applicants request that the requirement for a sequence listing be withdrawn since it was improperly issued and it is requested that the application be allowed.

Respectfully submitted,
Bierman, Muserlian and Lucas

By: _____
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CAM:ds
Enclosures

Application No.: 09/068,253

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

☐ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).

☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).

☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).

☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."

☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).

☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).

☐ 7. Other: _____

Applicant Must Provide:

☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".

☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.

☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support
Technical Assistance.....703-287-0200
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